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08/655,008 05/29/96 SCHWEITZER

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ART UNIT

PAPER NUMBER

2603

3

DATE MAILED:

09/12/96

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**Application No.  
**08/655,008**Applicant(s)  
**Schweitzer III et al.**Examiner  
**Kwang Bin Yao**Group Art Unit  
**2603**

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**

- ☒ Claim(s) 1-7 \_\_\_\_\_ is/are pending in the application.
- Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-7 \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

**Application Papers**

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- ☒ Notice of References Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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### *Double Patenting*

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ...". (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-7 are provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claims 1-7 of copending application Serial No. 08/546,477. This is a *provisional* double patenting rejection since the conflicting claims have not in fact been patented.

### *Drawings*

3. The drawings are objected to because Figure 1 is not designated by a legend such as "Prior Art". The legend is necessary in order to clarify what applicant's invention is. MPEP § 608.02(g). Correction is required.

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*Claim Rejections - 35 USC § 112*

4. Claims 1-7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In lines 12-13 of claim 1, it is not clear how the data packet is transformed back into the output bits. The output bits have already been formatted into data packet before transmitting to second relay as in lines 7-8 of claim 1, therefore the second relay should receive the data packet instead of "said output bits" and could not utilize "said output bits" as input bits.

In line 2 of claim 5, the meaning of the validity of the data expressed in the form of "internal bit" is not clear.

In line 3 of claim 7, it is not clear what is meant by "specific relay functions".

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

6. Claims 1-4 and 6 are rejected under 35 U.S.C. § 103 as being unpatentable over admitted prior art in view of Miyagi et al. (US 5,461,607).

The admitted prior art shows a communication system for power system protective relays used with a transmission line, incorporating two protective relays communicated in both direction and one relays locating at an upstream of the other, connecting two communication equipment with a communication link in Fig.1 of the application. The admitted prior art does not disclose means for formatting, means for transmitting, means for receiving, means for verifying, means for utilizing. Miyagi et al. discloses an ATM communication apparatus comprising: an AIS cell generation unit (transmit module) generates an ATIS cell and inserts in a receiving cell stream (means for formatting); a circuit (receive module) provided at downstream of the cell stream copies the AIS cell (means for transmitting, means for receiving), determines the failure state (means for verifying), generates a FERF cell in accordance with the determination and inserts in a sending cell stream (means for utilizing). (See column 3, lines 6-55). It would have been obvious to one of


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ordinary skill in the art at the time of invention to include the ATM communication apparatus in the admitted prior art of the present application as taught by Miyagi et al., in order to provide more comprehensive and reliable fault protection.

7. Claim 5 is rejected under 35 U.S.C. § 103 as being unpatentable over the admitted prior art in view of Miyagi et al. (US 5,461,607) as applied to claims 1-4 and 6 above, and further in view of Gambale et al. (US 4,020,396).

The admitted prior shows a communication system for power system protective relays and Miyagi et al. discloses an ATM communication apparatus as in the paragraph 5 above. However the admitted prior art and Miyagi et al. do not show how to use the logic equations to verify the validity of the data, Gambale et al. discloses a breaker tripping network 24 includes a plurality of OR networks 34,36 and 38 in Fig.1 (See column 2, lines 54-65). It would have been obvious to include the breaker tripping network in the admitted prior art and ATM communication apparatus of Miyagi et al. as taught by Gambale et al., in order to provide better performance for verifying the data.

8. Claim 7 is rejected under 35 U.S.C. § 103 as being unpatentable over the admitted prior art in view of Lebby et al. (US 5,218,465).



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The admitted prior art shows a communication system for power system protective relays as in the paragraph 5 above. However the admitted prior art does not show the means for programming, Lebby et al. discloses an intelligent interconnects for broadband optical networking comprising the microprocessors MICRO-P 37, 58 in Figure (means for programming). (See column 4, lines 3-30). It would have been obvious to one of ordinary skill in the art at the time of invention to include the microprocessors in the admitted prior art as taught by Lebby et al., in order to provide better manipulation for the output and input bits.

#### ***Conclusion***


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nishimura et al. (US 5,235,599) discloses a self-healing network with distributed failure restoration capabilities.

Hassan et al. (US 5,481,532) discloses a mobile telecommunications device and service.

Dzieduszek (US 5,267,231) discloses a digital communication channel interface.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to



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Kwang Bin Yao whose telephone number is (703) 308-7583. The examiner can normally be reached on Monday through Friday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms, can be reached on (703) 305-4703. The fax phone number for this Group is (703) 305-9509.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Kwang Bin Yao

Sep. 6, 1996

  
HASSAN KIZOU  
PRIMARY EXAMINER  
GROUP 2600